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July 23, 2024

VIA ECF

Honorable Michael A. Hammer
United States District Court
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

RE: *Nina Agdal v. Dillon Danis*, 23-CV-16873-MCA-MAH

Dear Judge Hammer,

We are writing regarding Defendant's failure to produce responsive materials from X (formerly Twitter), the social media platform on which Defendant carried out most of the offending conduct at issue in this case. At the Court's suggestion, immediately following the OTSC conference on July 11, Defendant initiated a download of data from X in the courtroom. Those efforts were successful, but it became apparent the download could not be completed in the courtroom, and it just was a matter of time until the download would finalize and then Defendant would transmit the data to Plaintiff in a legible format.

It has been over a week since the initiation of the X download, and Defendant still has not received the data. Last Wednesday, following a deposition in this case (which Defense counsel attended via Zoom), when we inquired of Defense counsel regarding the status of the X production, Defense counsel acknowledged Defendant owes Plaintiff the X materials but remarked something to the effect of that Defendant had "reverted to his old ways."

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The next day, July 18, we sent an email to Defense counsel inquiring again about the status of the X data production. We asked for the production by the end of the day on Friday (July 19), with assurances that Defendant had not used the delay to tamper with the X data (*i.e.*, removing/deleting responsive material) in advance of producing it to Plaintiff. We also offered to have a call with Defense counsel to discuss the issue, if needed. We have not received a response to that email.

Although the Court's Order, dated July 11, 2024 (D.E. 63), affords Defendant until August 18, 2024, to produce all outstanding responsive materials and to provide a certification confirming the completeness of the production, the Court differentiated between the X materials and all other responsive materials (explaining that the certification to be provided would be "exclusive of those related to X"), recognizing that production of the X materials already was underway and would be produced relatively soon. Indeed, considering the download of the X data was initiated over a week ago and it only was a matter of time before the data could be produced, Plaintiff does not understand why the materials have not yet been provided. More importantly, considering we did not receive a response to the most recent request for an update on the X production and Defense counsel's prior remark about Defendant "reverting to old ways," we are concerned Defendant may use the additional time to alter or otherwise improperly interfere with the production of the X materials.

Accordingly, we respectfully request that the Court issue an Order (i) directing Defendant to produce the X materials by end of the day on Friday, July 26, 2024, along with a certification from Defendant that the X materials produced have not been altered in any way and that no responsive materials were withheld or removed (other than for attorney-client privilege), and if Defendant fails to do so (Plaintiff will advise the Court if it receives the production and certification), (ii) scheduling an in-person conference that Defendant must attend, as soon as Your Honor is available, at which Defendant must explain the delay in producing the X materials and provide confirmation the data is not being deleted or altered.

Thank You for Your Honor's consideration.

Respectfully submitted,

/s/ Joseph B. Shumofsky
Joseph B. Shumofsky
Jeffrey Neiman
Jason L. Mays

cc: Counsel for Defendant Dillon Danis (via ECF)